

of the National Association for the Advancement of Colored People (NAACP). It was through his involvement in the NAACP that Lit developed his impressive talent for public and inspirational speaking. During WWII, he left his studies at West Chester University and served as a Tuskegee Airman. He later finished school and used his degree to become an educator at the Governor Bacon Health Center and the first black teacher in Delaware to teach white students.

Littleton considered Louis L. Redding, the Delaware lawyer who was instrumental in the landmark decision of *Brown v. Board of Education*, as a close friend and mentor. Though the two may not have always agreed on strategy, Lit credited Redding with giving him sound and sage advice—advice that would help him challenge the status quo in his quest to bring justice and equality to all people. A public servant to the highest degree, Littleton helped secure a job for the first black state trooper; coordinated marches and boycotts that confronted public officials and those in power; and worked tirelessly and successfully to eliminate the poor conditions of migrant camps. As President of Delaware's NAACP for more than 30 years, including during the height of the civil rights movement, Lit led efforts to secure fair housing, equal access to public resources, and equal education and employment opportunities.

During his lifetime, Lit was honored by many groups and organizations and served on numerous committees and commissions, including the *Brown v. Board of Education* 50th Anniversary Commission, established by Congress in 2001. In 1993, the University of Delaware awarded Lit their Medal of Merit in recognition of his unwavering commitment to community service and his trailblazing efforts in the pursuit of civil rights. This was a special honor for Lit as Jane, his high school sweetheart and wife of more than 60 years, had been awarded with the Medal of Merit 13 years prior. Referred to by Lit as his role model and the person whom he admired the most, Jane was the first black nurse to work in a state hospital and later served as the director of nursing at Delaware State Hospital. The two of them worked together to successfully end segregation in Delaware hospitals. Littleton, with Jane always by his side, was a steadfast and committed leader, universally acknowledged as a trailblazer in Delaware's civil rights movement.

An educator who advocated for the dignity and respect owed to every human being, Lit was the active and leading force behind so many of Delaware's historical "firsts." He dedicated his time and his energy to what he felt in his heart to be true. He was blessed with the ability to motivate others and to organize a community. Referred to by a young man who knew him well as a "gentle soldier," Lit was able to fight intolerance and bigotry in a manner that put people at ease. He had a truly great and peaceful approach to how he pursued his justice, and, with a way of getting things done by bringing people together, he used his extraordinary sense of understanding and his exceptional talent for speaking (what Lit himself referred to as his "acid tongue") to bring change and progress to our state. Not afraid to stand up and speak out, Lit was a man whom I greatly admired and considered a friend, a man of his convictions—just and fair with a compassionate soul and an infec-

tious smile. He was a man who may have intimidated some, but was beloved by many and respected by all. I take this opportunity to recognize Littleton P. Mitchell for his unending dedication and his immeasurable contributions and to honor his life—a life spent in service to his state and his country.

#### EARMARK DECLARATION

### HON. K. MICHAEL CONAWAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 13, 2009*

Mr. CONAWAY. Madam Speaker, pursuant to the House Republican standards on earmarks, I am submitting the following information regarding earmarks I received as part of H.R. 3170—Energy and Water Development and Related Agencies Appropriations Act, 2010.

In the Army Corps of Engineers Operations and Maintenance account, an earmark to complete a study in the Lower Colorado River Basin of Texas was included on behalf of the President and me. The entity to receive funding for this project is the Lower Colorado River Authority. LCRA Headquarters are located at 3700 Lake Austin Boulevard, Austin, Texas, 78703. The funding would be used to complete the draft interim feasibility studies for the highland lakes. The study area is bounded by the Guadalupe, Lavaca, and Colorado-Lavaca river basins on the west, and the Brazos and Brazos-Colorado basins on the east. This study is investigating water resource problems, needs, and opportunities to determine whether improvements for flood risk management, ecosystem restoration and protection, water quality, water supply and allied purposes have a Federal interest.

In the Army Corps of Engineers Operations and Maintenance account, an earmark for Hords Creek Lake, Texas was included on behalf of the President and me. The entity to receive funding for this project is Army Corps of Engineers Fort Worth District. The District offices are located at 819 Taylor Street, Ft. Worth, Texas, 76102. The project is in Coleman County about 13 miles west of the city of Coleman, Texas. The funding would be used to for operations and routine maintenance.

In the Army Corps of Engineers Operations and Maintenance account, an earmark for the O.C. Fisher Dam and Lake, Texas was included on behalf of the President and me. The entity to receive funding for this project is Army Corps of Engineers Fort Worth District. The District offices are located at 819 Taylor Street, Ft. Worth, Texas, 76102. The project is located in Tom Green County, on the North Concho River, near the City of San Angelo, Texas. The funding would be used to for operations and routine maintenance.

In the Army Corps of Engineers Operations and Maintenance account, an earmark for Proctor Lake, Texas was included on behalf of the President and me. The entity to receive funding for this project is Army Corps of Engineers Fort Worth District. The District offices are located at 819 Taylor Street, Ft. Worth, Texas, 76102. The project is in Comanche County on the Leon River, about eight miles northeast of the city of Comanche, Texas. The funding would be used to for operations and routine maintenance.

#### MILITARY CONSTRUCTION AND VETERANS AFFAIRS APPROPRIATIONS ACT, 2010

SPEECH OF

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 10, 2009*

The House in Committee of the Whole House on the State of the Union had under consideration to the bill H.R. 3082 making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes:

Mr. DINGELL. Madam Chair, I rise today in support of H.R. 3082, the Military Construction, Department of Veterans Affairs, and Related Agencies Appropriations Act for Fiscal Year 2010. This legislation continues the Democratic-Congress' dedication to our veterans by providing \$109 billion to the Department of Veterans Affairs (VA).

I am proud to support the passage of a bill which does so much for our veterans. This year, like every other year, our veterans deserve quality and affordable health care, the services needed to transition into civilian life and prevent homelessness, and other important benefits that will help them succeed in their personal and professional lives. I am particularly pleased the bill provides \$4.6 billion for mental health care treatment, especially in light of the growing number of returning Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) veterans with post traumatic stress disorder. The bill also provides \$440 million to increase access for veterans who live in rural areas, \$580 million for research in prosthetics, \$533 million to expand eligibility for VA health care to an estimated 266,000 "Priority 8" veterans, or those non-service-disabled veterans earning more than \$30,000 a year, and \$1.1 billion for improving our VA medical facilities.

Madam Chair, of particular concern to me are VA medical facilities in Southeast Michigan, where many of my constituents receive care. The Department of Veterans Affairs Ann Arbor Health System (VAAHS) staff believe that any plan to make the Toledo Community-based Outpatient Clinic administratively separate will have the effect of reducing their budget and inhibit their ability to provide services, including specialty services to their constituencies.

I share this concern. The VAAHS is the only VA medical facility in Michigan providing cardiac surgery, interventional cardiology, and neurosurgery. We must ensure they can continue doing so. The VAAHS has a plan that would double the size of the existing clinic in Toledo, allowing Toledo-area veterans to receive an increased amount of care at the Toledo clinic, from 75 percent currently to 90 percent. We must ensure that we move forward with plans for the existing clinic without impairing the care that is provided to veterans by VA hospitals in Southeast Michigan, including the VA hospitals Battle Creek, Detroit, and especially the one in Ann Arbor.

Madam Chair, as a veteran of World War II, I have the utmost respect for those who have served our nation. I also believe that the VA provides veterans with excellent health services, and should continue to stand out as a

leader in health care provision in our country. I urge my colleagues to join with me in supporting this legislation.

# INTRODUCTION OF THE DISCOUNT PRICING CONSUMER PROTECTION ACT OF 2009

**HON. HENRY C. "HANK" JOHNSON, JR.**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 13, 2009*

Mr. JOHNSON of Georgia. Madam Speaker, today I am pleased to introduce the Discount Pricing Consumer Protection Act of 2009. I am joined in my efforts by the honorable Chairman of the Judiciary Committee, Representative JOHN CONYERS of Michigan.

The purpose of this bill is to undo the harm to consumers posed by the Supreme Court's 2007 decision in *Leegin Creative Leather Products, Inc. v. PSKS, Inc.* In *Leegin*, the Supreme Court overturned 95 years of antitrust jurisprudence by reversing its 1911 decision in *Dr. Miles Med. Co. v. John D. Park & Sons, Co.*, which had expressly prohibited agreements between manufacturers and distributors on a minimum retail price for their products. Under the precedent set by *Leegin*, manufacturers are free to pursue this type of anti-competitive price fixing. This bill would negate the *Leegin* decision by making any such agreements a violation of Section 1 of the Sherman Act.

The philosophical foundation of our nation's antitrust policies is simple: competition benefits consumers. When competitors have no choice but to compete aggressively with one another, it is the customer who benefits from lower prices, better service, increased variety, etc.

The *Leegin* decision runs contrary to that philosophy. Consumers do not benefit from price fixing. In his dissent in *Leegin*, Justice Breyer writes that even if only 10 percent of manufacturers implement minimum price fixing policies, the average annual shopping bill for a family of four would increase by between \$750 and \$1000 annually. In this time of economic hardship, preserving competition and delivering value to consumers is as important as it has ever been.

Retail price competition is essential to promoting this country's culture of entrepreneurship. Small businesses often get their start by offering consumers something they're not getting from more established retailers. In the Internet space, this frequently involves selling goods available in retail locations at lower prices. Here again, where there is competition among retailers, the consumer wins.

The *Leegin* decision undermines retail competition by making it possible to set a floor price on goods sold in every conceivable outlet. Thus, the retailer who operates with lower overhead or a better cost structure is prevented from passing those cost savings on to consumers. The Supreme Court decision gives manufacturers the cover to strong-arm discount merchants into sustaining artificially high retail prices. True, the *Leegin* decision doesn't make every such agreement legal; it simply removes the prohibition that made any such agreement illegal on its face. But, as practicing antitrust attorneys will tell you, the enormous evidentiary burdens that a plaintiff

faces post-*Leegin* makes litigating such cases cost-prohibitive. The real-world effect, then, of *Leegin* is to make such agreements legal.

The benefits of the *Leegin* decision are dubious. Supporters claim that the decision prevents the "free riding" problem, in which customers do their research at higher-priced bricks-and-mortar outlets but then purchase the product at a lower-priced online retailer. In this manner, the bricks-and-mortar outlet, which invested in the customer service, is denied the benefit of the sale; the online retailer thus "free rides" off of its competitor. But I question this presumption. My children will search out all of the information they can find on high-priced gadgets before going to a store to check them out. Sometimes they buy them on the spot if they don't want to wait for shipping. Which begs the question: who is free-riding off of whom?

A second argument that crops up frequently is that minimum retail prices benefit new entrants. This is so reasonable-sounding that even supporters of the *Dr. Miles* decision will acknowledge it somewhat apologetically as an exception. But for the 95 years that *Dr. Miles* controlled, we saw innovation and new entry in every industry. Supporters of *Leegin* say that minimum retail prices give big retailers the security they need to take a chance on promoting a new product. But many of these concerns can be addressed contractually, in the form of contracts for services, contracts for buybacks, etc. There is no need to overturn settled antitrust law to accomplish indirectly what may be contracted for directly.

The harms of minimum retail price fixing are real and proven. In 1937, Congress passed the Miller-Tydings Act to shield from the federal antitrust laws so-called state "fair trade" laws that permitted manufacturers to set minimum retail prices for their goods. The results were bad for competition and bad for consumers. Studies conducted by the DOJ found that minimum retail price fixing on average increased prices for the affected goods by between 18 and 27 percent, and that elimination of the practice would save consumers \$1.2 billion. Congress responded by overturning Miller-Tydings with the passage of the Consumer Goods Pricing Act of 1975. In doing so, Congress examined and rejected various justifications for minimum retail price fixing, finding that the practice served little purpose other than to raise prices for consumers.

The bill I introduce today takes a stand for the consumer. It challenges manufacturers to remain innovative and aggressive, and not rely on side agreements with retailers to guarantee their own profits at the expense of a working family's paycheck. The federal antitrust laws are not an administrative inconvenience, to be done away with when threatened by the challenges of the free market. They are the greatest protection consumers have against the dangers that corporate greed, left unchecked, can pose.

## AMERICAN CLEAN ENERGY AND SECURITY ACT OF 2009

SPEECH OF

**HON. PHIL HARE**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 26, 2009*

Mr. HARE. Madam Speaker, I rise today in support of H.R. 2454, the American Clean En-

ergy and Security (ACES) Act. While this bill is far from perfect, it truly is the result of multi-region and multi-industry compromise, and I believe it will go a long way toward reducing our nation's carbon footprint.

I commend Energy and Commerce Committee Chairman HENRY WAXMAN and Energy and Environment Subcommittee Chairman EDWARD MARKEY for their efforts in putting together this comprehensive, global climate change legislation. I also commend my friend from Virginia, Representative RICK BOUCHER, for working tirelessly to ensure that coal-producing and coal-consuming states, like my home state of Illinois, can transition to renewable resources in a realistic timeframe.

One of the strongest assets of the ACES Act is its potential to significantly expand the green jobs sector all across America, creating millions of good-paying jobs that cannot be outsourced. Through federal investment in the production of biofuels and manufacture of wind turbines, among other renewable energy technologies and equipment, it is estimated that 3,700 new jobs will be created as a result of this bill in my congressional district alone.

Additionally, the ACES Act protects consumers from steep hikes in utility rates. I am pleased to see that the revenue gained from the allowance process in the bill would partially go toward those Americans most vulnerable to increases in their electric bills. With five separate programs to protect ratepayers from rising costs for natural gas and heating oil, I have full confidence that the residents of West Central Illinois will not experience significant hikes in their utility bills as a result of this legislation. In fact, the non-partisan Congressional Budget Office estimates that for the average household, costs from the ACES legislation would only be about 39 cents per day—less than the cost of a postage stamp.

I also appreciate that the bill takes into consideration rural agricultural districts like mine. By broadening the definition of "renewable biomass," allowing the Department of Agriculture to oversee carbon-offset projects in rural areas, and not including carbon emissions from indirect-land use, this bill would allow the ethanol makers, food producers, and agricultural equipment manufacturers to continue doing what they do best, while reducing greenhouse gas emissions at the same time. While I would have preferred to have seen in the bill a portion of the pollution allowances go to the food-processing agri-business sector, in addition to allocating "early action credit" allowances to those companies who have already taken voluntary greening measures to reduce their greenhouse gas emissions, I will vote in favor of this bill with the hope that these concerns will be addressed by the Senate or during conference committee.

As a comprehensive energy bill, the ACES Act also provides for the expansion of new nuclear generating units, and gives bonus allowances to those fossil-fuel units taking advantage of on-site carbon capture and sequestration (CCS) technologies. I am pleased that the bill invests approximately \$60 billion in CCS, the next generation of clean-coal technology which reduces harmful emissions by capturing and storing them, thereby preventing them from reaching the atmosphere.

Rural Electric Cooperatives provide much of the power to my constituents. As such, I am happy that the ACES legislation allocates a portion of the total free emission allowances to